

## **BILL ANALYSIS**

Senate Research Center  
83R5079 KKR-D

S.B. 582  
By: Davis  
Business & Commerce  
3/28/2013  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Drowning is the leading cause of injury-related death for children who are one to four years old, and is the fifth leading cause of unintentional injury death for people of all ages. More than 90 children die each year in Texas alone, and an additional 400 receive emergency care for nonfatal submersion injuries. Studies have shown that pool safety measures, such as a pool enclosure, can reduce drowning deaths by 80 percent or more. Well-placed safety measures are critical to curbing the tragic loss of life due to drowning in Texas.

S.B. 582 seeks to improve pool safety in the state by ensuring that all new pools and pool remodels are installed with proper safety devices such as a yard enclosure, a hot tub with a locking safety cover, a pool with an automatic power safety cover, or an exit alarm on each door providing access to the pool area and a swimming pool alarm that sounds on detection of accidental or unauthorized entrance into the water.

As proposed, S.B. 582 amends current law relating to swimming pool alarms and exit alarms for certain single-family homes, and provides a civil penalty.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 (Section 761.005, Health and Safety Code) and SECTION 3 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Authorizes that this Act be cited as the Residential Swimming Pool Safety Act in memory of Grayson James Satarino.

SECTION 2. Amends Subtitle A, Title 9, Health and Safety Code, by adding Chapter 761, as follows:

#### CHAPTER 761. RESIDENTIAL SWIMMING POOL SAFETY

Sec. 761.001. DEFINITIONS. Defines "ASTM," "department," "executive commissioner," "remodel," and "swimming pool" in this chapter.

Sec. 761.002. APPLICABILITY. Provides that this chapter does not apply to:

(1) a swimming pool with a pool yard enclosure that is constructed in compliance with the requirements of Section 757.003 (Enclosure for Pool Yard);

(2) a hot tub or spa with a locking safety cover that conforms to ASTM Standard F1346-91 (2010), "Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs," or a successor standard that is adopted by the executive commissioner of the Health and Human Services Commission the (executive commissioner) as being at least as safe as the F1346-91 (2010) standard;

(3) a swimming pool with an automatic power safety cover that conforms to ASTM Standard F1346-91 (2003), "Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs," or a successor standard that is adopted by the executive commissioner as being at least as safe as the F1346-91 (2003) standard; or

(4) a swimming pool in the jurisdiction of a political subdivision of this state that adopts an ordinance regarding alarms for residential swimming pools with requirements that are at least as stringent as the requirements of this chapter.

Sec. 761.003. **REQUIRED ALARMS.** Requires a person who constructs an in-ground swimming pool, installs an above-ground swimming pool, or remodels a swimming pool for a single-family home to provide for each swimming pool constructed, installed, or remodeled the following:

(1) on each door providing direct access from the home to the pool area without an intervening enclosure, an exit alarm that makes an audible, continuous alarm sound when the door is opened or left ajar and is battery operated or connected to the electrical wiring of the home; and

(2) a swimming pool alarm that when placed in a swimming pool, will sound on detection of accidental or unauthorized entrance into the water, meets and is certified by an independent third party as conforming to ASTM Standard F2208-08, "Standard Safety Specification for Residential Pool Alarms," as it existed on January 1, 2013, or a successor standard that is adopted by the executive commissioner as being at least as safe as the F2208-08 standard, and is not a swimming protection alarm device designed for individual use, such as an alarm attached to a child that sounds when the child exceeds a certain distance or becomes submerged in water.

Sec. 761.004. **CONSUMER NOTICE.** Requires a person who sells, constructs, installs, or remodels a swimming pool for a single-family home to provide to the owner of the home written notice of the requirements of this chapter.

Sec. 761.005. **DUTIES OF EXECUTIVE COMMISSIONER AND DEPARTMENT.** (a) Requires the executive commissioner to adopt rules necessary to implement this chapter.

(b) Requires the Department of State Health Services (DSHS) to post on DSHS's Internet website the requirements of this chapter, including rules adopted under this chapter, and any other residential swimming pool safety information the executive commissioner determines is appropriate. Requires that the information be posted in a format that is easily downloaded.

Sec. 761.006. **CIVIL PENALTY.** (a) Provides that a person who fails to comply with Section 761.003 is liable to this state for a civil penalty not to exceed \$5,000 for each noncompliance.

(b) Provides that a person who fails to comply with Section 761.004 is liable to this state for a civil penalty not to exceed \$1,000 for each noncompliance.

(c) Authorizes the attorney general to sue to collect a civil penalty under this section.

(d) Authorizes the attorney general to recover reasonable expenses incurred in obtaining a civil penalty under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

SECTION 3. (a) Requires the executive commissioner, not later than December 1, 2013, to adopt the rules and standards required by Chapter 761, Health and Safety Code, as added by this Act.

(b) Requires DSHS, not later than May 1, 2014, to post on DSHS's Internet website the information required by Section 761.005, Health and Safety Code, as added by this Act.

(c) Provides that notwithstanding Chapter 761, Health and Safety Code, as added by this Act, a person who constructs an in-ground swimming pool, installs an above-ground swimming pool, or remodels a swimming pool for a single-family home on or after the effective date of this Act is not required to comply with that chapter before May 1, 2014.

SECTION 4. (a) Effective date, except as provided by Subsection (b) of this section: September 1, 2013.

(b) Effective date, Section 761.006, Health and Safety Code, as added by this Act: May 1, 2014.